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December 9, 2003

Ms. Deborah Taylor Tate, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

***Re: CenturyTel of Claiborne, Inc. Petition for Suspension of the Federal Communications Commission Requirement to Implement Number Portability, Docket No. 03-00610.***

Dear Chairman Tate:

Enclosed for filing are the original and thirteen (13) copies of CenturyTel of Claiborne, Inc.'s Responses to the Data Requests of the Tennessee Regulatory Authority dated December 4, 2003 for filing in the above-styled matter.

Should you have any questions with respect to this filing, please do not hesitate to contact me at the telephone number listed above.

Best regards.

Very truly yours,



R. Dale Grimes

RDG/smb  
Enclosures

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:**

**CENTURYTEL OF CLAIBORNE, INC.  
PETITION FOR SUSPENSION OF THE  
FEDERAL COMMUNICATIONS COMMISSION  
REQUIREMENT TO IMPLEMENT  
NUMBER PORTABILITY**

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**Docket No. 03-00610**

**CENTURYTEL OF CLAIBORNE, INC.'S  
RESPONSES TO THE STAFF'S DATA REQUESTS  
DATED DECEMBER 4, 2003**

- 1. Has CenturyTel previously petitioned the FCC or the TRA requesting an extension of time, or a modification of the FCC's rules regarding number portability? If so, a copy should be provided with the response.**

CenturyTel of Claiborne, Inc. has not previous petitioned the TRA or the FCC requesting an extension of time or a modification of the FCC rules regarding number portability.

CenturyTel, Inc. filed a joint petition with the United States Telecom Association (USTA) on November 18, 2003, asking the FCC to stay (or delay) the Order implementation date so that all telephone companies would have more adequate time to evaluate the impact such changes will have on their customers. (See Attachment)

On November 20 the FCC denied CenturyTel's and the USTA's request to stay implementation of the Order. (See Attachment)

- 2. What procedures has CenturyTel put in place to comply with providing local number portability if it received a bona fide request from a CLEC providing local exchange service in the Knoxville MSA?**

An interdepartmental team is meeting regularly to create and implement all required new processes for Wireless LNP (since it differs from wireline LNP). The basic procedures include:

BFR Received  
Logged in  
Acknowledgement sent  
Log and BFR copy sent to LNP coordinator for Engineering/Ops  
Engineering and Ops evaluate switch needs, place in queue and initiate required purchases/work as appropriate

Contact will be made with requester re technical information exchange and porting terms/order process

After switch is ready, testing will be done

Porting will be available

**3. Identify the switch designation, and exchange, for which the petition of suspension of the FCC's rules is being sought.**

Sharps Chapel - Exchange

SHCPTNXARS5 - Switch

**4. Identify and describe the specific equipment, software, programming or other technical issues that make number portability technically infeasible for CenturyTel.**

As stated in the petition, CenturyTel has one wire center, Sharps Chapel, that provides service within an MSA in Tennessee that is identified as being in the top 100. No CenturyTel wire center in Tennessee is fully capable of providing number portability today. There are several steps that must take place before local number portability would become fully functional. These steps include:

a) Activating, licensing, and testing LNP software in each of the switches serving these wire centers. The software must be activated by the switch vendor. All other rural ILECs are also working to meet deadlines established in the Order. Hundreds of these companies rely on the same switch vendor as does CenturyTel. This circumstance will put great demands on the limited resources of the switch vendor. Even if the vendor had begun work on the day the Order was issued, and even if it worked exclusively on switches of the CenturyTel affiliated companies, it would have been impossible to accomplish all of the software activations by the November 24, 2003, deadline. It will take approximately 120 business hours of programming and testing to implement LNP in the EWSD switch serving Sharps Chapel.

b) Evaluation and possible reinforcement of data links. A critical element of LNP conversion is that the switch is able to communicate with a centralized database to do number translation inquiries for each and every originating call. CenturyTel will rely on a third party data base provider for LNP data base dips. Although the CenturyTel switches have existing SS7 links to that data base provider for other functions, those links must be re-evaluated and possibly re-enforced due to the greatly increased traffic that will be associated with LNP data base dips.

c) Evaluation and possible creation or re-enforcement of interoffice transport facilities necessary to deliver traffic to wireless carrier's points of presence. The Order (at paragraph 39) acknowledges that wireline to wireless number porting in the manner required by the Order will result in a changing of the routing of calls, possibly requiring routing to a point of connection outside of the service areas of the ILEC. Migration of this traffic to locations outside of CenturyTel's service area requires that evaluations be made to determine if new or re-enforced interoffice facilities will be required for this purpose.

d) Re-enforcement of service order process. The CenturyTel affiliated companies do currently have a service ordering process dedicated to LNP requests. However, existing the process is currently staffed to accommodate only the minimal wireline to wireline LNP activity that has occurred to date in limited and selected service territories. Additional training and staffing will have to take place before the process is capable of handling the greatly increased demand associated with wireline to wireless LNP.

This will result in significant costs passed on to customers in rural and small-city areas who may not receive benefits from LNP. Customers who choose to port their wireline numbers may also give up service reliability and features such as dependable E-911 service. Also, if a customer ports his wireline number to a wireless phone he can only port the number back to a wireline phone under limited circumstances.

**5. Provide, in the national aggregate, the number of access lines CenturyTel has in service.**

2,396,123 - of which 2,156,886 are residential or single line business

**6. Does CenturyTel charge its customers the FCC authorized local number portability charge as a regular monthly charge? If so, when did the charge begin to show on CenturyTel's billing invoices?**

No, there is not an FCC authorized local number portability charge for CenturyTel of Claiborne, Inc.

**7. In paragraph 13 of its Petition CenturyTel states, "...while Petitioner has previously received portability "requests" from wireless carriers they are not considered bona fide requests." Describe a number porting request that CenturyTel would consider a bona fide request. Compare what CenturyTel considers a bona fide request with the number porting requests previously received. Provide copies of the previous requests.**

Attached is a copy of the "request" received from T-Mobile that refers to the Knoxville MSA as well as the CenturyTel response back to T-Mobile indicating why it is not a bona fide request. (See Attachment.)

The FCC requirements state that for a request to be Bona Fide, it must be specific- it should list the specific CenturyTel rate centers (usually identified by switch CLLIs) which the wireless carrier serves and where it intends to submit porting orders. Further, the recent FCC Order limits a wireless carrier's request to those local calling areas where the wireless carrier has overlapping coverage. These requests that merely list MSAs do not meet the FCC's requirements because they do not specify switches in an "overlapped area" and imply all switches in the MSA are requested- even those not served by the carrier. CenturyTel has no knowledge of wireless coverage areas in any MSA nor where those areas may or may not overlap any CenturyTel local calling areas nor if the carrier

truly intends to port in all overlapping switch areas. It is the wireless carrier's responsibility to identify the appropriate switches.

**8. Does CenturyTel provide remote call forwarding, or like service features, as a subscription feature available to its consumers?**

No. CenturyTel of Claiborne, Inc. does provide a call forwarding custom calling feature, but we do not offer a remote call forwarding service. Remote call forwarding is an exchange service that utilizes a telephone number and a central office facility in the RCF local calling area to forward automatically all incoming calls dialed to the RCF telephone number to another telephone number.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
CTIA Petitions for Declaratory Ruling on	)	
Wireline-Wireless Porting Issues	)	

**JOINT PETITION FOR STAY PENDING JUDICIAL REVIEW**

**SUMMARY AND INTRODUCTION**

Pursuant to 47 C.F.R. §§ 1.41, 1.43, the United States Telecom Association (“USTA”) CenturtyTel, Inc., and CenturtyTel of Colorado, Inc. (collectively, “petitioners”) request the Commission to stay the *Wireless-Wireline Porting Order*.<sup>1</sup> The Commission’s decision to require wireline local exchange carriers (“LECs”) to port numbers to any wireless carrier that provides service in the customer’s rate center – even if the wireless carrier lacks any numbering resources or point of interconnection in that rate center – was procedurally improper and substantively inequitable. In 1997, the Commission tasked the North American Numbering Council (“NANC”) – a collaborative industry body – with resolving, among other issues related to intermodal number portability, the issue that the Commission purported to resolve in the *Order*. The NANC was unable to resolve the issue and sought further guidance from the Commission.

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<sup>1</sup> Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, *Telephone Number Portability*, CC Docket No. 95-116, FCC 03-284 (rel. Nov. 10, 2003) (“*Order*”).

But instead of providing that guidance, and without issuing a notice of proposed rulemaking to alert the industry that the process the Commission had established would be abandoned, the Commission simply adopted a new rule. Because the Commission's rule requires number portability even when the telecommunications subscriber's location changes, the new rule requires location portability – in contradiction of the Commission's prior rule. Moreover, the rule the Commission chose puts wireline carriers at a fundamental disadvantage. It permits wireless carriers to port the numbers of, and thereby compete for, wireline customers even if the wireless carriers have neither number resources nor a point of interconnection within the rate center to which the numbers are assigned. At the same time, it *prevents* wireline carriers from competing for the wireless carriers' customers in those same circumstances.

Allowing the new rules to go into effect would cause severe harm to petitioners. Customers will port wireline numbers to wireless carriers pursuant to the unlawful rules, but petitioners will be unable to compete for customers currently served by wireless carriers. Such net customer losses – resulting purely from regulatory favoritism – will cause petitioners irreparable loss of revenue and goodwill. By contrast, no party will suffer harm if the status quo is maintained during a period of review: indeed, most wireless carriers have fought LNP tooth and nail and should not be heard to claim that they will suffer if wireline-wireless LNP is further delayed.

Moreover, the public interest will benefit from the avoidance of expense and customer confusion that the new rules will surely cause. For example, the Commission failed to address how consumers will be informed about and protected against the loss of E911 capability when switching from a wireline to a wireless phone. Nor did the Commission address the tremendous

consumer cost that will be generated by implementation of LNP capability in small, rural exchanges. A stay will permit the Commission to address those issues in an orderly fashion.

Because of the severe harm that will be caused by these rules if they are permitted to take effect on November 24, 2003, and to allow sufficient time for a reviewing court to address a stay motion in the event that the Commission does not grant relief, petitioners respectfully request action on this petition by November 20, 2003.

### **BACKGROUND**

The *Order* is based on the premise that wireline carriers have long been under an obligation to port numbers to requesting commercial mobile radio service ("CMRS") providers. *See Order* ¶ 5. In fact, wireline carriers have never before been required to port numbers to wireless providers. As the Commission is well aware, with a few recent exceptions, wireless providers have long been united in *opposing* implementation of local number portability for CMRS and have never previously developed the ability to port out or to port in telephone numbers, wireless or wireline. Accordingly, the Commission has never resolved the basic issues of law and policy that would make intermodal number portability possible.

After the Commission determined the basic timetable and methodology for LNP in the *First Report and Order*,<sup>2</sup> the Commission turned to the NANC to develop technical guidelines for implementation and administration of the system. In the *Second Report and Order*,<sup>3</sup> the Commission adopted the recommendations of the NANC, which were codified by reference in the Code of Federal Regulations. *See* 47 C.F.R. § 52.26(a). But the NANC's recommendations did not provide a basis for implementation of wireline-wireless (or "intermodal") LNP. Indeed,

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<sup>2</sup> First Report and Order and Further Notice of Proposed Rulemaking, *Telephone Number Portability*, 11 FCC Rcd 8352 (1996).

<sup>3</sup> Second Report and Order, *Telephone Number Portability*, 12 FCC Rcd 12281 (1997).



the Cellular Telecommunications and Internet Association (“CTIA”) itself argued that the NANC guidelines could not be considered a basis for intermodal porting because the report did not address, among other issues, “how the differences between service area boundaries for wireline versus wireless services will be accounted for.” *Second Report and Order*, 12 FCC Rcd at 12332, ¶ 88. Thus, the Commission held that its adoption of the NANC recommendations “should not be viewed in any way as an indication that we believe our plan for implementing local number portability is complete. The industry, under the auspices of the NANC, will probably need to make modifications to local number portability standards and processes as it . . . obtains additional information about incorporating CMRS providers into a long-term number portability solution and interconnecting CMRS providers with wireline carriers already implementing their number portability obligations.” *Id.* at 12333, ¶ 90. The Commission therefore directed the NANC “to make recommendations to the Commission . . . for modifications to the various technical and operational standards as necessary for CMRS providers to efficiently implement number portability and to allow CMRS providers to interconnect with a wireline number portability environment.” *Id.* at 12334, ¶ 92.

The NANC was unable to fulfill the Commission’s directive, however. As summarized in the Local Number Portability Administration Working Group’s *Third Report on Wireless Wireline Integration*,<sup>4</sup> the working group was unable to resolve the issue of “disparity” between wireline and wireless carriers. *Id.* at 19. The reason for this “disparity” is that wireline-wireline portability is limited to carriers with a presence (either a physical point of interconnection or numbering resources) within the same rate center. Wireline carriers maintained that, at a

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<sup>4</sup> North American Numbering Council, *LNPA Working Group 3rd Report on Wireless Wireline Integration* (Sept. 30, 2000).

minimum, wireless carriers should be subject to the same limitation. Wireless carriers maintained that they should be able to port in numbers whenever they provided service within the rate center – a different rule from the one applicable to wireline carriers. The NANC was unable to resolve the issue and referred it to the FCC for further guidance. *See id.*

The FCC declined to provide any such guidance, however, and there matters stood for the better part of three years. In early 2003, CTIA filed a Petition for Declaratory Ruling, asking the Commission to rule that – despite NANC’s inability to resolve the issue – wireline carriers should be obligated to port numbers to wireless carriers whenever the requesting carrier’s coverage area overlaps with the rate center associated with the requested number. The Commission put the petition out for public comment.

The wireline industry informed the Commission that it could not adopt the rule that CTIA was requesting without issuing a notice of proposed rulemaking.<sup>5</sup> The Commission had made clear in its earlier orders that intermodal portability could not be implemented as a practical matter until various issues – including the rate-center disparity issue – were resolved. In addition, the Commission’s rule requires wireline carriers to provide not just service provider portability but also *location* portability, because there is no reason to believe that the wireless customer will use the wireless service at the customer’s original location. Because the Commission’s prior rule made clear that petitioners were *not* required to provide location portability, such a change in rule could not be accomplished without a notice.

Moreover, the rule that CTIA asked the Commission to adopt was blatantly discriminatory, in violation of established norms under the Communications Act and the

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<sup>5</sup> *See, e.g.,* Ex Parte Letter from Kathleen B. Levitz, BellSouth, to Marlene H. Dortch, FCC, CC Docket No. 95-116 (Sept. 30, 2003).

Commission's prior orders. First, the rule puts wireless carriers at a significant advantage over other competing wireline carriers, which must establish a point of presence within the rate center to port in a number associated with that rate center. Second, the rule puts wireless carriers at a significant competitive advantage over all wireline carriers, because wireless carriers are able to port numbers from, and thereby compete for, wireline customers, while at the same time foreclosing such competition for their own customers simply by assigning their customers telephone numbers that are not associated with the rate center where the customer's principal address is located.

Despite the procedural and substantive failings of CTIA's proposed rule, the Commission granted the petition and adopted the new rule, significantly expanding wireline carriers' porting obligations.

## **DISCUSSION**

In evaluating a request for a stay pending judicial review, the Commission employs the familiar test set out in *Virginia Petroleum Jobbers Association v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958) (per curiam), pursuant to which the Commission balances (1) the likelihood of success on the merits, (2) whether petitioners will suffer irreparable injury absent a stay, and (3) the effect of a stay on other parties and the public interest. *See, e.g., Order, Auction of Licenses for VHF Public Coast and Location and Monitoring Service Spectrum*, 17 FCC Rcd 19746, 19753, ¶ 12 (2002); *see also Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 844 (D.C. Cir. 1977). In this case, each of these factors militates strongly in favor of a stay.

### **I. PETITIONERS ARE LIKELY TO SUCCEED ON THE MERITS**

Petitioners are likely to succeed on their petition because the rule adopted in the *Order* – which requires wireline carriers to port out numbers in circumstances where they were never

required to port out numbers before – is an abrupt departure from the Commission’s prior approach to this issue. “[I]f a second rule . . . is irreconcilable with [a prior legislative rule], the second rule must be an amendment of the first; and, of course, an amendment to a legislative rule must itself be legislative.’” *Sprint Corp. v. FCC*, 315 F.3d 369, 374 (D.C. Cir. 2003) (alterations in original) (quoting *National Family Planning & Reproductive Health Ass’n v. Sullivan*, 979 F.2d 227, 235 (D.C. Cir. 1992)). That is the case here.

**A. The Order Embodies a New Rule**

The Commission characterizes the *Order* as a “clarification[]” of “wireline carriers’ existing obligation to port numbers to wireless carriers.” *Order* ¶ 26. That characterization cannot withstand scrutiny. Where, as here, “an agency changes the rules of the game . . . more than a clarification has occurred.” *Sprint*, 315 F.3d at 374.

The *Order* departs from the rules established in the *First Report and Order* and the *Second Report and Order* in three fundamental ways.

First, in the *First Report and Order*, the Commission ruled that carriers would *not* be required to provide location portability, that is “the ability of users of telecommunications services to retain existing telecommunications numbers . . . when moving from one physical location to another.” 11 FCC Rcd at 8443, ¶ 174. The requirement that wireline carriers port numbers to wireless carriers, even when those carriers have no presence within the rate center, thus conflict with the Commission’s prior determination. Although the Commission stated that its rule “does not, in and of itself, constitute location portability, because the rating of calls to the ported number stays the same” (*Order* ¶ 28), its statement cannot be squared with the plain terms of its prior order. Without question, the current *Order* requires wireline carriers to port numbers

even when the subscriber “mov[es] from one physical location to another.” That requirement cannot be imposed without a rulemaking.

Second, those orders established a procedure for resolving the administrative and technical details of implementation of Commission number portability policy – *i.e.*, reference to the NANC. *See, e.g., First Report and Order*, 11 FCC Rcd at 8402, ¶ 95. With respect to intermodal portability in particular, the Commission recognized that implementation issues had not yet been resolved *and directed the NANC to resolve them. Second Report and Order*, 12 FCC Rcd at 12334, ¶ 92. Once the NANC determined that the rate-center disparity issue could not be resolved without further guidance from the Commission, the Commission had two options: it could provide further guidance and send the issue back to the NANC, or it could issue a notice of proposed rulemaking and take the process out of the NANC’s hands. But, in light of where the Commission left matters under its prior rules, it could not simply order wireline carriers to port numbers to wireless carriers in circumstances where wireline carriers would not be able to make a comparable request. To do so was inconsistent with the industry-collaborative approach to resolution of intermodal portability issues adopted by the Commission in the *Second Report and Order*.

Moreover, the rule that the Commission adopted with respect to wireline-wireless portability is actually *inconsistent* with the rules governing wireline-wireline portability. Thus, the NANC guidelines – which were incorporated into the Commission’s rules by reference, *see* 47 C.F.R. § 52.26(a) – limit porting “to carriers with facilities or numbering resources in the same rate center.” *Order* ¶ 7. The Commission acknowledged that its prior orders “limit[] the scope of wireline carriers’ porting obligation with respect to the boundary for wireline-to-wireline porting,” but argued that prior rules “ha[d] never established limits with respect to

wireline carriers' obligation to port to wireless carriers." *Id.* ¶ 26. But the Commission's argument misses the point: in the absence of *any* requirement that wireline carriers port numbers to a requesting carrier that had no facilities or numbering resources in the rate center, the Commission could establish that requirement only by adopting a new rule, not by interpreting any existing obligation.

Third, and most broadly, the current rule represents a radical departure from the nondiscrimination and competitive neutrality standards that the Commission had embraced in its prior number portability orders. In the very Notice of Proposed Rulemaking that initiated this proceeding, the Commission affirmed that among the reasons for adopting number portability requirements was to ensure that the "telecommunications system" was "efficient *and fair*."<sup>6</sup> In adopting particular requirements for number portability administration, the Commission repeatedly stressed that it would be unacceptable for number portability to be a source of competitive disparity.<sup>7</sup> With respect to intermodal number portability in particular, the Commission again held that the industry could not implement any system that would produce discrimination between wireline and wireless carriers.<sup>8</sup> Notably, CTIA itself admonished the Commission that a number portability "solution that does not include wireless networks will not

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<sup>6</sup> Notice of Proposed Rulemaking, *Telephone Number Portability*, 10 FCC Rcd 12350, 12361-62, ¶ 29 (1995) (emphasis added) (citing 47 U.S.C. § 202).

<sup>7</sup> See, e.g., *First Report and Order*, 11 FCC Rcd at 8403, ¶ 98 ("Allowing particular carriers access to the databases over others would be inherently discriminatory and anti-competitive."); *Second Report and Order*, 12 FCC Rcd at 12326, ¶ 78 ("We also require LECs to apply this blocking standard to calls from all carriers on a nondiscriminatory basis."); *id.* at 12330, ¶ 85 ("We also direct the NANC to address the needs of CMRS providers to ensure that number conservation efforts do not unfairly discriminate against such carriers.").

<sup>8</sup> See *Second Report and Order*, 12 FCC Rcd at 12334, ¶ 91.

achieve the Commission's goals of interoperability and *nondiscrimination*.”<sup>9</sup> The statutory importance of nondiscrimination is emphasized repeatedly in the Communications Act, both in general and in the local number portability context in particular.<sup>10</sup> And the agency has established as a bedrock principle that numbering administration “[n]ot unduly favor or disfavor any particular telecommunications industry segment” and “[n]ot unduly favor one telecommunications technology” (47 C.F.R. § 52.9(a)(2)-(3)) – principles that the new rule deliberately violates. Moreover, the D.C. Circuit has made clear that an agency rule that mandates discriminatory treatment for similarly situated service providers is unlikely to be upheld. *See C.F. Communications Corp. v. FCC*, 128 F.3d 735, 740-41 (D.C. Cir. 1997).

There is no dispute that the *Order* abandons, with hardly a backward glance, the nondiscrimination requirements upheld in prior orders. The Commission did not (and could not) contest the point that, by granting CTIA's petition, it would adopt a rule that would create a significant competitive disparity in favor of wireless carriers. If two customers – located next door to one another – each seek to switch service to a different (intermodal) provider, a wireline customer (seeking to switch to wireless) would be able to do so; the wireless customer (seeking to switch to wireline) likely would not. *See Order* ¶ 27. Moreover, a wireline customer seeking to switch service to a different wireline provider would be unable to do so unless the wireline provider had a point of presence within the rate center – a requirement notably absent where the customer seeks to switch to a wireless carrier. *See id.* ¶ 7.

The Commission's defense of its about-face is wholly unpersuasive. The Commission simply declared that “[t]he fact that there may be technical obstacles that could prevent some

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<sup>9</sup> *Id.* at 12332, ¶ 89 (emphasis added; internal quotation marks omitted).

<sup>10</sup> *See* 47 U.S.C. § 202 (barring discrimination); *id.* § 251(e)(2) (costs of number portability must be borne “on a competitively neutral basis”).

other types of porting [*i.e.*, wireless-to-wireline] does not justify denying wireline consumers the benefit of being able to port their wireline numbers to wireless carriers.” *Id.* ¶ 27. But, until now, the Commission has frequently insisted that such technical disparities should not be permitted to produce a competitive disparity among different classes of providers. *See, e.g.*, *Second Report and Order*, 12 FCC Rcd at 12334, ¶ 91.

Moreover, adopting a policy of discrimination in this context is particularly inappropriate in light of the fact that the Commission refused to characterize wireline-wireless porting as “service portability” – as opposed to service *provider* portability – in the *First Report and Order*. *See* 11 FCC Rcd at 8443, ¶ 172. That is, the Commission required carriers to port numbers only when the porting-in carrier would provide the *same* telecommunications service as the porting-out carrier, but not for the provision of a different telecommunications service. Yet the Commission characterized wireline voice service and wireless voice service as the same service for this purpose precisely to ensure that number portability concerns would not block intermodal competition. *See id.* Thus, the Commission had a responsibility to ensure that number portability would promote intermodal competition – not distort it by deliberately favoring one type of service over another.

To be sure, the “focus of the porting rules [should be] on promoting competition, rather than protecting individual competitors.” *Order* ¶ 27. But the rule that the Commission adopted in the *Order* does not permit competition on a level playing field; instead, it self-consciously promotes the interests of the wireless industry over the wireline industry. If reasonably equitable intermodal portability had been implemented, consumers would be better off. And the Commission, which has been aware of the obstacles to implementation of intermodal portability for more than *six years*, could have initiated a proceeding that would have enabled the industry



to establish such a regime. What the Commission could not do, however, was to adopt the inequitable rule contained in the *Order*.

**B. The Commission Could Not Adopt the *Order* Without Notice and Comment**

Under the Administrative Procedure Act (“APA”), informal rulemaking must be preceded by publication of a notice in the Federal Register. *See* 5 U.S.C. § 553(b). The Commission’s failure to publish a notice of proposed rulemaking in the Federal Register before adopting the rule embodied in the *Order* violates the unambiguous requirements of the law and constitutes fatal procedural error that requires vacatur. *See Sprint*, 315 F.3d at 376-77; *Order*, *Sprint Corp. v. FCC*, Nos. 01-1266 *et al.* (D.C. Cir. Apr. 1, 2003) (clarifying that failure to provide notice would require vacatur of rule).

Nor can it be contended that petitioners received “actual notice” of the new rule prior to its adoption, sufficient to excuse the Commission’s failure to adhere to the APA’s procedural requirements. *See* 5 U.S.C. § 553(b). To take advantage of that provision, the Commission must be able to identify a particular communication that “specifically name[s]” the entity that would bear the brunt of the new rule (here, the petitioners). *Sprint*, 315 F.3d at 374; *see Utility Solid Waste Activities Group v. EPA*, 236 F.3d 749, 754 (D.C. Cir. 2001).

What is more, to qualify as “actual notice” under section 553(b), the communication relied upon by the Commission must be “adequate to afford interested parties a reasonable opportunity to participate in the rulemaking process.” *MCI Telecomms. Corp. v. FCC*, 57 F.3d 1136, 1142 (D.C. Cir. 1995) (internal quotations marks omitted); *see also McLouth Steel Prods. Corp. v. Thomas*, 838 F.2d 1317, 1322-23 (D.C. Cir. 1988) (APA notice must be “clear and to the point”). By definition, a public notice seeking comment on a petition for *clarification* of an existing rule cannot provide adequate notice that a new rule is contemplated. Indeed, the public

notice, if anything, strongly suggested that the Commission would *not* impose any new obligations in response to CTIA's petition. As an initial matter, the notice was issued pursuant to delegated authority, and therefore could not signal that a change in rule was contemplated. *See Sprint*, 315 F.3d at 376; *see* Public Notice, 18 FCC Rcd 832 (2003). Moreover, the text of a subsequent notice on a related CTIA petition stated that "many of the issues associated with the implementation of LNP have been resolved by consensus in industry fora, including the North American Numbering Council (NANC)," but added that "there are a number of outstanding issues that cannot be resolved without *specific direction* from the Commission." Public Notice, 18 FCC Rcd 10537 (2003) (emphasis added). Yet the Commission did not provide specific direction to permit industry resolution of this issue – it adopted a new rule on its own.

Nor can it be contended that the Commission's procedural error was harmless. Failure to adhere to the notice requirements of the APA mandates reversal as long as there is "any uncertainty at all as to the effect of that failure." *Sugar Cane Growers Coop. of Florida v. Veneman*, 289 F.3d 89, 96 (D.C. Cir. 2002) (citing *McLouth Steel Prods.*, 838 F.2d at 1324). In this respect, petitioners "need not" identify "additional arguments" or "considerations they would have raised in a comment procedure." *Id.* at 96-97 (noting that such a requirement would "eviscerate[]" section 553); *see Sprint*, 315 F.3d at 377 ("a showing of actual prejudice is not required" in a notice claim under section 553). Rather, it is enough to establish that the effect of the FCC's procedural failings "is uncertain." *Sprint*, 315 F.3d at 377.

Petitioners easily satisfy that standard here. By proceeding without issuing a notice, the Commission severely constrained petitioners in their ability to propose solutions to technical and regulatory barriers to intermodal portability that would have enabled the Commission to proceed in a balanced, nondiscriminatory fashion. Such technical and regulatory issues require

comprehensive analysis, as well as vetting by all interested parties – which is precisely why issues such as this one are ordinarily resolved by industry collaborative proceedings or, failing that, by a rulemaking that provides all parties an adequate opportunity to comment. Here, by contrast, while the bulk of the Commission’s attention was directed at issues related to wireless-wireless portability – which did not even identify the specific issues that the Commission might address – was the only indication that a significant policy decision was imminent. Such procedural laxity is wholly inconsistent with the APA and fundamental fairness.

In addition, the Commission’s procedural short-cut prevented petitioners and other interested parties from fully developing a record on the competitive distortions that would necessarily follow from implementing intermodal portability before the disparity of treatment between wireless and wireline carriers was resolved. Had the Commission issued a proper notice, such issues could have been addressed in a more comprehensive fashion, and competitive neutrality could have been preserved.

## **II. THE BALANCE OF EQUITIES FAVORS A STAY**

The *Order* will harm petitioners because they will face an unfair fight. They will lose thousands of customers to wireless carriers now able to offer existing wireline customers number portability. Yet they will be unable to offset those losses – or to join battle with the wireless carriers on their own turf – not because of any limitation in their product, but simply because wireless carriers will have no obligation to port customers’ numbers to competing wireline carriers. Such net customer losses – which would stem not from competition on the merits but rather from the inequitable effects of the Commission’s *Order* – establish irreparable injury. *See, e.g., Multi-Channel TV Cable Co. v. Charlottesville Quality Cable Operating Co.*, 22 F.3d 546, 552 (4th Cir. 1994). That the net customer losses could never be remedied bolsters the showing

of irreparable harm. *Wisconsin Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985) (suggesting that, in the absence of “adequate compensatory or other corrective relief,” “economic loss” amounts to irreparable harm) (citation and internal quotation marks omitted); cf. *Independent Bankers Ass’n of Am. v. Smith*, 534 F.2d 921, 929-30, 951-52 (D.C. Cir. 1976) (losses that stem from “competitive disadvantages” based on unfair competition constitute irreparable injury).<sup>11</sup>

Nor is there any cognizable harm to wireless providers from a stay of the intermodal porting requirement pending the development of a set of rules that guarantees competitive neutrality. First, the wireless industry has long opposed the implementation of number portability and therefore cannot plausibly argue that the lack of intermodal portability poses a significant barrier to their efforts to attract customers. Second, a stay will simply leave wireline and wireless providers with symmetrical number portability requirements; wireless carriers will be at no disadvantage.

Finally, the public interest likewise favors a stay. A stay will forestall the expense and consumer confusion that would result from premature implementation of intermodal portability. It stands to reason that many of the individuals most interested in intermodal portability are also individuals who may be likely to change residences often within the same urban area. Such individuals are also likely to want to switch numbers repeatedly from wireline to wireless carriers and back as their communications needs (and service coverage) vary. Implementation of

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<sup>11</sup> Moreover, LECs will be obligated to incur substantial expense to implement the intermodal local number portability (“LNP”) capability that the Commission has required; the Commission has not even determined whether (let alone how) LECs will be able to recover those expenses. See *BellSouth Corporation Petition for Declaratory Ruling and/or Waiver, Telephone Number Portability*, CC Docket No. 95-116 (filed Nov. 14, 2003) (implementation costs associated with wireless LNP estimated at \$38 million for BellSouth alone).

intermodal portability promises such flexibility, but, as implemented by the Commission, it is a false promise. Customers may be able to port wireline numbers out, but there is no guarantee that they will be able to port them back. The public interest does not benefit from such a fundamentally skewed and confusing rule.

In addition, because the Commission acted too precipitately, it also failed to address a number of important consumer protection issues related to intermodal portability. First, consumers will likely be unaware that, because wireless carriers have failed to implement E911 capability, consumers will be unable to rely on the 911 system automatically to direct emergency personnel to their location. (This assumes that a consumer is able to obtain a signal at all.) Second, the cost of implementation of intermodal capability may produce significant consumer harm in many small and rural exchanges. *See Ex Parte Letter from Gerard J. Duffy to Marlene H. Dortch, FCC, CC Docket No. 95-116 (Oct. 20, 2003).* Hundreds of smaller ILECs operate exchanges with only a few hundred customers. The implementation costs associated with LNP deployment in rural markets places a disproportionate end user charge on rural customers because of low customer density; yet there may be no immediate local number portability benefit for these customers. Third, there is simply no established method for routing and billing calls that have been ported out of the local exchange – a matter that would have been addressed had the issue been resolved in the industry forum as the Commission had originally required. Implementation of the *Order* before these issues are addressed will harm the public interest.

### CONCLUSION

The Commission should issue a stay pending appeal of the *Order*.

Respectfully submitted,



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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telephone Number Portability	)	
	)	CC Docket No. 95-116
United States Telecom Association and	)	
CenturyTel of Colorado, Inc. Joint Petition for	)	
Stay Pending Judicial Review	)	
	)	
	)	

**ORDER**

**Adopted: November 20, 2003**

**Released: November 20, 2003**

By the Commission:

**I. INTRODUCTION**

1. In this Order, we deny the Joint Petition for Stay Pending Judicial Review, filed by the United States Telecom Association (USTA) and CenturyTel of Colorado, Inc. (collectively, "petitioners").<sup>1</sup> Petitioners seek a stay of the Commission's November 10, 2003, order addressing wireline-wireless porting issues (*Intermodal Porting Order*).<sup>2</sup> In pertinent part, the *Intermodal Porting Order* clarified that wireline carriers must port numbers to wireless carriers where the requesting wireless carrier's coverage area overlaps the geographic location of the rate center in which the customer's wireline number is provisioned, provided that the porting-in carriers maintains the number's original rate center designation following the port. For the reasons discussed below, we conclude that petitioners have not met the legal standards for a stay.

**II. BACKGROUND**

2. On January 23, 2003, the Cellular Telecommunications and Internet Association (CTIA) filed a petition requesting that the Commission issue a declaratory ruling that wireline carriers have an obligation to port their customers' telephone numbers to wireless carriers whose service areas overlap the wireline rate center that is associated with the number.<sup>3</sup> On November 10, 2003, the Commission released an order addressing the CTIA petition. The order clarified that the Commission's rules do not require a wireless carrier, as a precondition to wireline-wireless porting, to have a physical point of interconnection or numbering resources in the wireline rate center where the number is assigned. The Commission clarified that porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier's "coverage area" overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate

<sup>1</sup> United States Telecom Association and CenturyTel of Colorado, Inc. Joint Petition for Stay Pending Judicial Review, CC Docket No. 95-116 (filed Nov. 18, 2003) (Nov. 18<sup>th</sup> Petition).

<sup>2</sup> Telephone Number Portability, CC Docket No. 95-116, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, FCC 03-284, rel. Nov. 10, 2003. (*Intermodal LNP Order*).

<sup>3</sup> CTIA Petition for Declaratory Ruling, CC Docket No. 95-116 (filed Jan. 23, 2003) (January 23<sup>rd</sup> Petition).

center designation following the port. The order defined wireless "coverage area" as the area in which wireless service can be received from the wireless carrier.

3. On November 18, 2003, petitioners filed a motion for stay pending judicial review of the Commission's November 10<sup>th</sup> order. Petitioners contend that the Commission's decision to require wireline carriers to port numbers to any wireless carrier that provides service in the customer's rate center constitutes a new rule adopted without proper notice. Petitioners argue that allowing the order to go into effect will cause severe harm for petitioners because they will be unable to compete for customers currently served by wireless carriers. Moreover, petitioners contend, the public interest will benefit from the avoidance of expense and customer confusion that the Commission's order will cause.

### III. DISCUSSION

4. The Commission evaluates petitions for stay under well settled principles. To warrant a stay, a petitioner must demonstrate that: (1) it is likely to prevail on the merits; (2) it will suffer irreparable harm if a stay is not granted; (3) other interested parties will not be harmed if the stay is granted; and (4) the public interest favors granting a stay.<sup>4</sup> If the last three factors strongly favor the party requesting the stay, then the Commission may grant the stay if a petitioner makes a substantial case on the merits, rather than demonstrating likely success.<sup>5</sup> We find that the petitioners have not satisfied these criteria.

5. First, we continue to believe that our actions contained in the *Intermodal LNP Order*, for the reasons articulated in that Order, are lawful and supported by the record. The showings made by the Joint Petitioners are repetitive of matters specifically considered and rejected by the Commission in that underlying Order, and thus do not satisfy the first factor set forth above. In particular, we considered and rejected petitioners' "notice" argument in the underlying order, finding that the requirement that LECs port numbers to wireless carriers is not a new obligation.<sup>6</sup>

6. Moreover, an evaluation of the Joint Petitioners' request under the three remaining factors reveals that the balance of the equities clearly weighs against granting a stay. In alleging irreparable harm, Joint Petitioners suggest that the new rules establish an "unfair fight" by permitting only a one-way migration of customers from wireline to wireless carriers.<sup>7</sup> As the Commission established in the *Intermodal LNP Order*, however, intermodal number portability is a two-way obligation.<sup>8</sup> Indeed, wireline carriers can port in some number of wireless numbers today. Moreover, a wireline carrier may compete to win back a customer who ported his home telephone number to a wireless carrier, provided that customer has remained at the same location. While there are circumstances under which a wireless carrier need not port a number to a requesting wireline carrier (*i.e.*, where the wireless customer seeks to port a number to a wireline telephone falling in a different rate center), the Commission has sought comment on how to facilitate wireless-to-wireline porting in these instances. Petitioners have not demonstrated, however, that they will be disadvantaged during the pendency of this further proceeding,

<sup>4</sup> *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958); *see also* *Washington Metropolitan Transit Commission v. Holiday Tours, Ind.*, 559 F.2d 841 (D.C. Cir. 1977).

<sup>5</sup> *See* *Cuomo v. NRC*, 772 F.2d 972, 974 (D.C. Cir. 1985); *Wisconsin Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985); *Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843-44 (D.C. Cir. 1977).

<sup>6</sup> *Intermodal LNP Order* at para. 26.

<sup>7</sup> Joint Petition at 14 ("wireless carriers will have no obligation to port customers' numbers to competing wireline carriers").

<sup>8</sup> *Intermodal LNP Order* at para. 22 ("We also reaffirm that wireless carriers must port numbers to wireline carriers with the number's originating rate center.").



much less that this harm will be substantial and irreparable.<sup>9</sup>

7. Our consideration of the final two factors – the impact of a stay on other parties and on the public interest – also weighs against granting the stay. As explained in the Order, the new rules eliminate impediments to competition among wireless carriers, and between wireless and wireline carriers.<sup>10</sup> In this manner, number portability promotes competition between telecommunications service providers, allowing customers the flexibility to respond to price and service changes without changing their telephone numbers. We see no reason, based on the instant petition, to delay these benefits to consumers, carriers and to the competitive marketplace.

8. Petitioners also raise the matter that wireline customers who port to wireless carriers may be unaware they may not, in every instance, be able to rely on the 911 system's ability to direct emergency personnel to the customer's location. The Commission recognizes the importance of customers' ability to access emergency services from wireless devices and receive timely emergency services, and has a number of initiatives aimed at ensuring prompt and accurate location and callback information to public safety answering points.<sup>11</sup> Through various consumer outreach programs, this Commission, wireless carriers, and the public safety community are actively getting the message out to consumers about what they can expect from their wireless devices' ability to access emergency services. We do not find that these concerns, however, warrant a stay of the number portability rules.

9. Petitioners also assert that high implementation costs associated with LNP deployment in rural markets place a disproportionate burden on rural customers even though there may be no immediate benefit from LNP. Because LNP is request driven—that is, carriers do not need to deploy LNP until receiving a request from another carrier to do so—it is difficult to see how there would be no immediate benefit from deploying the necessary architecture to support LNP. If a carrier receives a request to deploy LNP, it is highly likely that a competitor has in fact entered a market and will seek to market service, wireless or wireline, to end users of the incumbent carrier. Finally, with no factual backup, petitioners assert that there is no established method for routing and billing calls ported outside of the local exchange. We note that today, in the absence of wireline-to-wireless LNP, calls are routed outside of local exchanges and routed and billed correctly. We thus find that, without more explanation, the scope of the alleged problem and its potential effect on consumers is unclear.

<sup>9</sup> See *Wisconsin Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985)(to warrant a stay, the harm must be shown to be “both certain and great; it must be actual and not theoretical”; and it must be “of such imminence that there is a ‘clear and present’ need for equitable relief to prevent irreparable harm” (*internal citations omitted*)).

<sup>10</sup> *Intermodal LNP Order* at para. 27.

<sup>11</sup> See, e.g., FCC Expands E911 Rules, *News Release*, CC Docket 94-102, IB Docket 99-67 (rel. Nov. 13, 2003) (announcing adoption of order adding services to FCC's E911 rules); Prevention of Unintentional Wireless 911 Calls, *Staff Report*, CC Docket 94-102, 17 FCC Rcd. 24820 (2002) (reporting on steps taken to reduce number of unintentional wireless 911 calls); Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems, *Report and Order and Further Notice of Proposed Rulemaking*, CC Docket 94-102, 11 FCC Rcd. 18676 (1996) (requiring transmission of call-back number and location information to public safety answering points).

**IV. ORDERING CLAUSES**

10. Accordingly, IT IS ORDERED that the USTA and CenturyTel of Colorado, Inc. November 18th Petition for Stay is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

Dec 05 03 02:41p CenturyTel  
DEC-05-2003 FRI 10:49 AM CENTURYTEL

903-735-6612  
FAX NO. 318 388 9602

P. 2  
P. 12

**T-Mobile** FEB 24 2003

12920 SE 38th Street, Bellevue, WA 98006

February 21, 2003

To Whom It May Concern:

Enclosed please find T-Mobile USA, Inc.'s ("T-Mobile") Bona Fide Request ("BFR") Form for local number portability as required by the Federal Communications Commission in CC Docket 95-116. Please fill out the form where indicated and return a copy to T-Mobile by March 7, 2003. Once the completed BFR is returned, T-Mobile will begin negotiations on the local number portability operations agreements.

Please contact me if you have any further issues regarding this request.

Sincerely,

Shannon Reilly  
Corporate Counsel – Regulatory Affairs  
(425) 378-5178  
shannon.reilly@t-mobile.com

Enclosure

Attachment to the Response to the  
TRA's Data Request #7 of Dec. 4, 2003  
(Docket #03-00610)  
Page 1



### BONA FIDE REQUEST FORM (BFR)

T-Mobile USA, Inc. ("T-Mobile") requests deployment of long-term Local Number Portability as defined in the FCC mandates (CC Docket 95-116). Specifically, T-Mobile requests that ALL codes be opened for portability within the Metropolitan Statistical Areas designated below.

**Actions required of the Recipient:**

1. Within 10 days of receipt, provide confirmation to T-Mobile that this form has been received.
2. For all currently released code, and those to be released at any future time, within the areas requested below, open all for porting in the LERG.
3. For all currently released code, and those to be released at any future time, within the areas requested below, open all for porting in the NPAC (Number Portability Administration Center).
4. Ensure that all switches handling codes with the designated MSAs are Local Number Portability Capable.

TO: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Phone: \_\_\_\_\_

FROM: T-Mobile USA, Inc.  
Contact Name: Shannon Reilly  
Address: 12920 SE 38<sup>th</sup> St  
Bellevue, WA 98006  
Email: shannon.reilly@T-Mobile.com  
Fax: 425-378-4840  
Phone: 425-378-5178

Date of Request: February 24, 2003  
Confirmation Due: March 7, 2003  
Effective Date: November 24, 2003

Designated Metropolitan Statistical Areas (MSAs) to be Opened for Porting November 24, 2003:				
MSA Number	MSA Name	State	Date LNP Capable	CLL Code of Switch Serving MSA
1	New York--Northern New Jersey--Long Island	NY,NJ,CT, PA		
2	Los Angeles--Riverside--Orange County	CA		
3	Chicago--Gary--Kenosha	IL,IN,WI,WV		
4	Washington--Baltimore	DC,MD,VA,WV		
5	San Francisco--Oakland--San Jose	CA		
6	Philadelphia--Wilmington--Atlantic City	PA,NJ,DE,MD		
7	Boston--Worcester--Lawrence	MA,NH,ME,CT		
8	Detroit--Ann Arbor--Flint	MI		
9	Dallas--Fort Worth	TX		
10	Houston--Galveston--Brazoria	TX		
11	Atlanta	GA		
12	Miami--Fort Lauderdale	FL		
13	Seattle--Tacoma--Bremerton	WA		
14	Phoenix--Mesa	AZ		
15	Minneapolis--St. Paul	MN,WI		
16	Cleveland--Akron	OH		

17	San Diego	CA		
18	St. Louis	MO		
19	Denver--Boulder--Greeley	CO		
20	San Juan--Caguas--Arecibo	PR		
21	Tampa--St. Petersburg--Clearwater	FL		
22	Pittsburgh	PA,NJ,DE,MD		
23	Portland--Salem	OR,WA		
24	Cincinnati--Hamilton	OH,KY,IN		
25	Sacramento--Yolo	CA		
26	Kansas City	MO,KS		
27	Milwaukee--Racine	WI		
28	Orlando	FL		
29	Indianapolis	IN		
30	San Antonio	TX		
31	Norfolk--Virginia Beach--Newport News	VA,NC		
32	Las Vegas	NV,AZ		
33	Columbus	OH		
34	Charlotte--Gastonia--Rock Hill	NC,SC		
35	New Orleans	LA		
36	Salt Lake City--Ogden	UT		
37	Greensboro--Winston-Salem--High Point	NC,SC		
38	Austin--San Marcos	TX		
39	Nashville	TN		
40	Providence--Fall River--Warwick	RI,MA		
41	Raleigh--Durham--Chapel Hill	NC		
42	Hartford	CT		
43	Buffalo--Niagara Falls	NY		
44	Memphis	TN,AR,MS		
45	West Palm Beach--Boca Raton	FL		
46	Jacksonville	FL		
47	Rochester	NY		
48	Grand Rapids--Muskegon--Holland	MI		
49	Oklahoma City	OK		
50	Louisville	KY,IN		
51	Richmond--Petersburg	VA,NC		
52	Greenville--Spartanburg--Anderson	SC		
53	Dayton--Springfield	OH		
54	Fresno	CA		
55	Birmingham	AL		
56	Honolulu	HI		
57	Albany--Schenectady--Troy	NY		
58	Tucson	AZ		
59	Tulsa	OK		
60	Syracuse	NY		
61	Omaha	NE,IA		
62	Albuquerque	NM		
63	Knoxville	TN		

64	El Paso	TX		
65	Bakersfield	CA		
66	Allentown--Bethlehem--Easton	PA		
67	Harrisburg--Lebanon--Carlisle	PA		
68	Scranton--Wilkes-Barre--Hazleton	PA		
69	Toledo	OH		
70	Baton Rouge	LA		
71	Youngstown--Warren	OH		
72	Springfield	MA,NH,ME,CT		
73	Sarasota--Bradenton	FL		
74	Little Rock--North Little Rock	AR		
75	McAllen--Edinburg--Mission	TX		
76	Stockton--Lodi	CA		
77	Charleston--North Charleston	SC		
78	Wichita	KS		
79	Mobile	AL		
80	Columbia	SC		
81	Colorado Springs	CO		
82	Fort Wayne	IN		
83	Daytona Beach	FL		
84	Lakeland--Winter Haven	FL		
85	Johnson City--Kingsport--Bristol	TN		
86	Lexington	KY,IN		
87	Augusta--Aiken	GA,SC		
88	Melbourne--Titusville--Palm Bay	FL		
89	Lancaster	PA		
90	Chattanooga	TN,GA		
91	Des Moines	IA		
92	Kalamazoo--Battle Creek	MI		
93	Lansing--East Lansing	MI		
94	Modesto	CA		
95	Fort Myers--Cape Coral	FL		
96	Jackson	MS		
97	Boise City	ID		
98	Madison	WI		
99	Spokane	WA		
100	Pensacola	FL		

Costilla	CO		Savannah	GA
Elbert	CO		Spalding	GA
Fort Collins, Lovind	CO		Toombs	GA
Warren	GA		Kosciusko	IN
Whitfield	GA		Lafayette	IN
Worth	GA		Miami	IN
Hawai	HI		Muncie	IN
Kauai	HI		Newton	IN
Maui	HI		Owen	IN
Audubon	IA		Randolph	IN
Cedar Rapids	IA		South Bend	IN
Dubuque	IA		Terre Haute	IN
Humboldt	IA		Warren	IN
Ida	IA		Brown	KS
Iowa City	IA		Elk	KS
Jackson	IA		Franklin	KS
Lyon	IA		Lawrence	KS
Mills	IA		Topeka	KS
Monona	IA		Clay	KY
Muscatine	IA		Fulton	KY
Union	IA		Mason	KY
Winneshiek	IA		Owensboro	KY
Davenport	IA, IL		Powell	KY
Sioux City	IA, NE		Trimble	KY
Boundary	ID		Union	KY
Boundary	ID		Alexandria	LA
Butte	ID		Beauregard	LA
Clark	ID		Caldwell	LA
Elmore	ID		Claiborne	LA
Idaho	ID		De Soto	LA
Lemhi	ID		Iberville	LA
Adams	IL		Lafayette	LA
Bureau	IL		Lake Charles	LA
Clay	IL		Monroe	LA
Decatur	IL		Morehouse	LA
Jo Daviess	IL		Plaquemines	LA
Joliet	IL		Shreveport	LA
Kankakee	IL		St. James	LA
Mason	IL		West Feliciana	LA
Mercer	IL		Barnstable	MA
Montgomery	IL		New Bedford	MA
Peoria	IL		Pittsfield	MA
Rockford	IL		Frederick	MD
Springfield	IL		Kent	MD
Vermilion	IL		Oxford	ME
Washington	IL		Portland	ME
Anderson	IN		Alger	MI
Bloomington	IN		Benton Harbor	MI

Burlington	NC		Ashtabula	OH
Cabarrus	NC		Canton	OH
Camden	NC		Clinton	OH
Cherokee	NC		Dayton	OH
Fayetteville	NC		Hancock	OH
Henderson	NC		Lima	OH
Hickory	NC		Mansfield	OH
Mercer	OH		Laurens	SC
Morrow	OH		Oconee	SC
Ross	OH		Corson	SD
Sandusky	OH		Custer	SD
Williams	OH		Haakon	SD
Cimarron	OK		Hanson	SD
Enid	OK		Harding	SD
Garvin	OK		Kingsbury	SD
Grant	OK		McPherson	SD
Harper	OK		Rapid City	SD
Haskell	OK		Sioux Falls	SD
Jackson	OK		Sully	SD
Lawton	OK		Bledsoe	TN
Nowata	OK		Cannon	TN
Clatsop	OR		Fayette	TN
Coos	OR		Giles	TN
Crook	OR		Hamblen	TN
Eugene, Springfield	OR		Lake	TN
Hood River	OR		Macon	TN
Lincoln	OR		Maury	TN
Medford	OR		Clarksville	TN, KY
Umatilla	OR		Abilene	TX
Altoona	PA		Amarillo	TX
Bedford	PA		Atascosa	TX
Bradford	PA		Beaumont	TX
Crawford	PA		Briscoe	TX
Erie	PA		Brownsville	TX
Greene	PA		Burleson	TX
Huntington	PA		Chambers	TX
Jefferson	PA		Cherokee	TX
Johnstown	PA		Concho	TX
McKean	PA		Corpus Christi	TX
Northeast	PA		Dallam	TX
Potter	PA		Edwards	TX
Reading	PA		Fannin	TX
Sharon	PA		Gaines	TX
State College	PA		Galveston	TX
Union	PA		Hansford	TX
Williamsport	PA		Hardeman	TX
York	PA		Hudspeth	TX



Newport	RI		Jack	TX	
Calhoun	SC		Killeen, Temple	TX	
Cherokee	SC		Laredo	TX	
Chesterfield	SC		Longview, Marsall	TX	
Clarendon	SC		Loving	TX	
Florence	SC		Lubbock	TX	
Georgetown	SC		Midland	TX	
Hampton	SC		Navarro	TX	
Lancaster	SC		Newton	TX	
Odessa	TX		La Crosse	WI	
Parmer	TX		Marquette	WI	
Reeves	TX		Pierce	WI	
Runnels	TX		Sheboygan	WI	
San Angelo	TX		Trempealeau	WI	
Sherman, Denison	TX		Vernon	WI	
Texarkana	TX		Vilas	WI	
Tyler	TX		Wausau	WI	
Victoria	TX		Wood	WI	
Waco	TX		Grant	WY	
Wichita Falls	TX		Mason	WY	
Wilson	TX		Wetzel	WY	
Beaver	UT		Casper	WY	
Box Elder	UT		Converse	WY	
Carbon	UT		Lincoln	WY	
Juab	UT		Niobrara	WY	
Morgan	UT		Park	WY	
Piute	UT		Sheridan	WY	
Amelia	VA		Santa Rosa, Petaluma	CA	
Bath	VA		Visalia, Tulare	CA	
Bedford	VA		New London	CT	
Buckingham	VA		Waterloo, Cedar Falls	IA	
Caroline	VA		Aurora, Elgin	IL	
Danville	VA		Bloomington, Normal	IL	
Frederick	VA		Champaign, Urbana	IL	
Giles	VA		Elkhart, Goshen	IN	
Greensville	VA		Houma, Thibodaux	LA	
Highland	VA		Lewiston, Auburn	ME	
Lee	VA		Saginaw, Bay, Midland	MI	
Madison	VA		Fargo, Moorhead	ND, MN	
Roanoke	VA		Manchester, Nashua	NH	
Tazewell	VA		Vineland, Millville	NJ	
Addison	VT		Utica, Rome	NY	
Burlington	VT		Lorain, Elyria	OH	

Franklin	VT			Staubenville, Weirton	OH		
Bellingham	WA			Bryan, College St	TX		
Bremerton	WA			Provo, Orem	UT		
Clallam	WA			Richland, Kennewick	WA		
Ferry	WA			Janesville, Beloit	WI		
Grays Harbor	WA			Appleton	WI		
Kittitas	WA			Columbia	WI		
Okanogan	WA			Door	WI		
Olympia	WA			Green Bay	WI		
Whitman	WA			Kenosha	WI		
Yakima	WA						

P.O. Box 4065  
Monroe, LA 71211-4065  
Tel 318 388 9000



**CERTIFIED MAIL**

November 14, 2003

Shannon Reilly  
T-Mobile  
12920 SE 38<sup>th</sup> Street  
Bellevue, WA 98006

RE: Local Number Portability requests

Dear Ms. Reilly,

As you know, just this week the FCC released an Order establishing wireline to wireless portability as of November 24, 2003 for the Top 100 MSAs and as of May 24, 2004 for the non-Top 100 MSAs where bona fide requests (BFRs) have been received. Accordingly, all CenturyTel Operating Companies are working to comply with the FCC's Order as written and as it is in effect and applicable to any particular CenturyTel Operating Company.

While the CenturyTel family of companies will cooperatively work with T-Mobile on this matter, nothing in this week's FCC Order changed or eliminated the BFR process for Local Number Portability (LNP). To reconfirm what was stated to you in my March 4, 2003 letter, FCC rules specifically require that a *separate* BFR be submitted for *each* CenturyTel Operating Company (Incumbent Local Exchange Carrier - "ILEC") where LNP would be required, and the BFR must list the specific ILEC wire centers (identified by CLLIs) which T-Mobile serves and where T-Mobile intends to submit porting orders. There are 73 legal entity local telephone companies that operate under the CenturyTel brand, and they are the officially certified operating companies in the 22 states that they serve and the legal owners of any and all local switches. (A courtesy list is attached for your use.) Neither I nor anyone else can make legally binding assumptions regarding T-Mobile's intent with respect to generically or improperly addressed requests.

In addition, if T-Mobile desires to negotiate any porting related agreements, all requests for agreements must be company-specific as well.

As you know from prior interaction with various CenturyTel companies, all requests pertaining to any intercarrier issues must be sent to the appropriate Carrier Relations contact, or at a minimum, to me as the Carrier Relations department head, for prompt handling. There are no other designated contacts for your company to make requests or

Dec 05 03 05:55p CenturyTel  
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903-735-6612  
FAX NO. 318 388 9602

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to initiate negotiations. Valid receipt can only be acknowledged, and action initiated, by an authorized Carrier Relations designate.

To make this process more efficient for T-Mobile, however, you may submit all separate requests directly to me as a representative of all legal entity telephone companies that operate under the CenturyTel brand. I will coordinate as needed with personnel from each of the operating companies where you intend to port. In addition, although each request must be company-specific, by mutual agreement, relevant operating companies may concur in one agreement per state.

Any CenturyTel Operating Company will acknowledge any obligation it has to your company regarding LNP and any associated agreements, once that company officially receives a request from T-Mobile that complies with the legal regulations that are still in effect. Accordingly, please address your company- and switch-specific requests and send them directly to me at the address shown on this letter. I may also be reached at 318-330-6148 or [guy.miller@centurytel.com](mailto:guy.miller@centurytel.com).

Sincerely,



Guy Miller  
Corporate Director- Carrier Relations  
CenturyTel Service Group

	A	B	C	D	E
1		OPERATING COMPANY LEGAL NAME	STATE		OCN
2	T800	CenturyTel of Alabama, LLC	Alabama		*
3	T801	CenturyTel of Northern Alabama	Alabama		**9789
4	T802	CenturyTel of Southern Alabama	Alabama		**9788
5	T114	CenturyTel of Southwest, Inc. - Arizona	Arizona		2175
6	T049	CenturyTel of South Arkansas, Inc.	Arkansas		1727
7	T087	CenturyTel of Redfield, Inc.	Arkansas		1720
8	T090	CenturyTel of Northwest Arkansas, LLC (Russellville)	Arkansas		1142
9	T091	CenturyTel of Northwest Arkansas, LLC (Silosm Springs)	Arkansas		1143
10	T092	CenturyTel of Central Arkansas, LLC	Arkansas		1144
11	T039	CenturyTel of Mountain Home, Inc.	Arkansas		1711
12	T044	CenturyTel of Arkansas, Inc.	Arkansas		1708
13	T110	CenturyTel of Colorado, Inc.	Colorado		2208
14	T149	CenturyTel of Eagle Inc.	Colorado		2185
15	T083	CenturyTel of Idaho, Inc.	Idaho		2225
16	T148	CenturyTel of the Gem State, Inc.	Idaho		4437
17	T081	CenturyTel of Odon, Inc.	Indiana		0801
18	T085	CenturyTel of Central Indiana, Inc.	Indiana		0747
19	T079	CenturyTel of Chester, Inc.	Iowa		1126
20	T185	CenturyTel of Postville, Inc.	Iowa		1274
21	T035	CenturyTel of Central Louisiana, LLC	Louisiana		0423
22	T046	CenturyTel of North Louisiana, LLC	Louisiana		0436
23	T048	CenturyTel of East Louisiana, LLC	Louisiana		0440
24	T051	CenturyTel of Southeast Louisiana, Inc.	Louisiana		0424
25	T056	CenturyTel of Evangeline, LLC	Louisiana		0434
26	T057	CenturyTel of Southwest Louisiana, LLC	Louisiana		0442
27	T059	CenturyTel of Northwest Louisiana, Inc.	Louisiana		0431
28	T121	CenturyTel of Chatham, LLC	Louisiana		0427
29	T140	CenturyTel of Ringgold, LLC	Louisiana		0439
30	T058	CenturyTel Midwest - Michigan, Inc.	Michigan		0671
31	T100	CenturyTel of Michigan, Inc.	Michigan		0702
32	T127	CenturyTel of Northern Michigan, Inc.	Michigan		0705
33	T163	CenturyTel of Upper Michigan, Inc.	Michigan		0688
34	T184	CenturyTel of Minnesota, Inc.	Minnesota		1445
35	T042	CenturyTel of North Mississippi, Inc.	Mississippi		0458
36	T168	Spectra Communications Group, LLC	Missouri		1151
37	T803	CenturyTel of Missouri, LLC	Missouri		**
38	T804	CenturyTel of Belle-Hermonn	Missouri		**9785
39	T805	CenturyTel of Southern Missouri	Missouri		**9788
40	T806	CenturyTel of Southwest Missouri	Missouri		**9787
41	T807	CenturyTel of Central Missouri	Missouri		**9784
42	T146	CenturyTel of Montana, Inc.	Montana		2249
43	T147	CenturyTel of the Gem State, Inc.	Nevada		4438
44	T112	CenturyTel of Southwest, Inc. - New Mexico	New Mexico		2274
45	T120	CenturyTel of Ohio, Inc.	Ohio		0830
46	T144	CenturyTel of Eastern Oregon, Inc.	Oregon		2360
47	T145	CenturyTel of Oregon, Inc.	Oregon		2395
48	T033	CenturyTel of Claiborne, Inc.	Tennessee		0557
49	T085	CenturyTel of Adamsville, Inc.	Tennessee		0552
50	T119	CenturyTel of Ooltawah-Collegedale, Inc.	Tennessee		0574
51	T032	CenturyTel of Port Aransas, Inc.	Texas		2117
52	T125	CenturyTel of San Marcos, Inc.	Texas		2140
53	T137	CenturyTel of Lake Dallas, Inc.	Texas		2101
54	T141	CenturyTel of Washington, Inc.	Washington		2408
55	T142	CenturyTel of Inter Island, Inc.	Washington		2422
56	T143	CenturyTel of Cowiche, Inc.	Washington		2410
57	T070	CenturyTel of Wisconsin, LLC	Wisconsin		0885
58	T072	CenturyTel of Southern Wisconsin, LLC	Wisconsin		0831
59	T073	CenturyTel of Fairwater-Brandon-Alto, LLC	Wisconsin		0877
60	T097	CenturyTel of Central Wisconsin, LLC	Wisconsin		1159
61	T105	CenturyTel of Forestville, LLC	Wisconsin		0884
62	T106	CenturyTel of Larsen-Readfield, LLC	Wisconsin		0898

	A	B	C	D	E
63	T108	CenturyTel of Monroe County, LLC	Wisconsin		0913
64	T109	CenturyTel of Northwest Wisconsin, LLC	Wisconsin		0950
65	T111	CenturyTel of Northern Wisconsin, LLC	Wisconsin		0958
66	T156	CenturyTel of the Midwest-Wisconsin, LLC	Wisconsin		0922
67	T157	CenturyTel of the Midwest-Wisconsin, LLC	Wisconsin		0841
68	T158	CenturyTel of the Midwest-Wisconsin, LLC	Wisconsin		0834
69	T159	CenturyTel of the Midwest-Wisconsin, LLC	Wisconsin		0959
70	T160	CenturyTel of the Midwest-Wisconsin, LLC	Wisconsin		0857
71	T181	CenturyTel of the Midwest-Wisconsin, LLC	Wisconsin		0970
72	T182	CenturyTel of Midwest-Kendall, LLC	Wisconsin		0824
73	T187	Telephone USA of Wisconsin, LLC	Wisconsin		1155
74	T150	CenturyTel of Wyoming, Inc.	Wyoming		2299

P.O. Box 4065  
Monroe, LA 71211-4065  
Tel 318 388 9000



March 4, 2003

Shannon Reilly  
T-Mobile  
12920 SE 38<sup>th</sup> Street  
Bellevue, WA 98006

Dear Ms. Reilly,

CenturyTel is in receipt of your letter of February 21, 2003, which is styled as a Bona Fide Request for local number portability. For several reasons, your letter does not qualify as a Bona Fide Request (BFR) and CenturyTel cannot respond to your letter as it is written.

In the FCC's First Report and Order on Number Portability, it was stated that that "[t]he term 'number portability' means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers..." In the Second Report and Order, the FCC states "Portability is technically limited to rate center/rate district boundaries of the incumbent LEC due to rating/routing concerns." This was codified at Section 52.26 of the Commission's rules. By FCC regulation, therefore, porting is restricted to customers who exist and remain within the original LEC rate center. Your request does not legally certify that your porting requests will only be for non-location porting- porting to non-mobile wireless telephones located within our rate center.

In May of 1998, the North American Numbering Committee submitted to the Chief of the Common Carrier Bureau the Local Number Portability Administration Working Group Report on Wireless - Wireline Integration (Working Group Report). The Working Group Report concluded that "consensus was not reached on porting between wireline and wireless carriers." The associated rate center issues were forwarded to the Commission. To date, the FCC has not acted upon these questions.

CenturyTel contends that the FCC's silence is acquiescence to the unjust policy implications surrounding wireline to wireless portability and that therefore, pending resolution of these issues, wireline companies have no obligation to accept location porting requests from a wireless carrier until these issues are resolved. As you know, there is currently a proceeding underway at the FCC, which seeks to determine if wireline to wireless porting should in fact be required. It would be premature for T-Mobile to request and CenturyTel to accept location porting BFRs until this proceeding is concluded.

If the current proceeding does resolve the issues inherent in wireline to wireless porting (which is not a foregone conclusion), then your subsequent BFRs cannot be submitted in the same fashion as your February 21 letter.

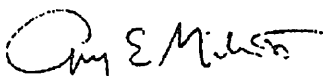
Your letter is addressed "To Whom It May Concern." While it is acceptable not to know a specific name to include on your letter, the letter must be addressed to a specific CenturyTel company. There are seventy-two CenturyTel Operating Companies in twenty-two states. Each is its own legal entity and just as with BFRs for interconnection agreements, a request must be directed to a specific company.

Also, as written, your letter does not constitute a Bona Fide Request (BFR) as defined by the FCC in their First Report and Order. The FCC requires that a BFR be "a specific request for deployment of number portability in any particular switch located in the MSAs in that state designated in the First Report and Order." Your letter does not identify any particular CenturyTel switch. Rather, it is more of a shopping list that apparently lists every MSA in the United States and makes no reference to any specific switch in an MSA. ~~Your BFR must be for a specific CenturyTel Operating Company~~ switch (or switches) in a specific MSA. Anything else is not a BFR per FCC definition.

In addition, CenturyTel believes that current regulations establish that legitimate BFRs may only be sent by companies that have interconnection agreements in place. Without an interconnection agreement, there is no connectivity between the companies and therefore no traffic exchange. Hence, porting cannot take place. Prior to sending your future BFRs, please ensure that you have an agreement in place for the specific Operating Company in question.

As an overall answer to your portability question, however, you should be aware that most CenturyTel Operating Companies are designated rural carriers. As such, there are very few switches in the top 100 MSAs. The switches in most CenturyTel Operating Companies are therefore not currently LNP capable.

Sincerely,



Guy Miller  
Director- Carrier Relations  
CenturyTel Service Group